

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Kevin Richardson,

Plaintiff

v.

State of Nevada,

Defendant

Case No. 2:24-cv-01380-CDS-DJA

Order Adopting Magistrate Judge's Report
and Recommendation, Denying Plaintiff's
Motion, and Closing Case

[ECF Nos. 14, 20]

Plaintiff Kevin Richardson initiated this action without paying the filing fee or applying to proceed *in forma pauperis* (IFP). ECF No. 1. Therefore, Magistrate Judge Daniel J. Albregts ordered Richardson to pay the \$405 filing fee for a civil action or to complete an IFP application. ECF No. 4; ECF No. 9. Richardson had until October 16, 2024, to comply with Judge Albregts' order. ECF No. 9. On October 30, 2024, after finding that Richardson had failed to pay the filing fee or submit an IFP application, Judge Albregts issued a report and recommendation (R&R) that this case be dismissed without prejudice. R&R, ECF No. 14. Two days after Judge Albregts' recommendation, Richardson paid a \$5.00 filing fee to the Clerk of Court and requested a "2254 Habeas Corpus Form." ECF No. 16; ECF No. 17.¹ Because it appeared that Richardson was attempting to pursue habeas relief, Judge Albregts advised Richardson that if he "wishes to bring a habeas corpus action, he may not file his petition in this existing civil case. He must file a new habeas corpus case." ECF No. 18. Contrary to that order and instruction, Richardson has filed a "motion-habeas corpus" in this civil case. ECF No. 20.

Richardson had until November 13, 2024, to object to Judge Albregts' recommendation to dismiss this action. *See id.* at 2; Local Rule IB 3-2(a) (stating that parties wishing to object to an

¹ Richardson was provided information, the form, and instructions for filing a petition for writ of habeas corpus on November 4, 2024. ECF No. 17 ("(For Distribution by law library.) (Attachments: # 1 2254 Habeas Petition) (Copies have been distributed pursuant to the NEF - AMMi) (Entered: 11/04/2024)").

1 R&R must file objections within fourteen days); *see also* 28 U.S.C. § 636(b)(1)(C) (same).
2 Richardson was cautioned that failure to pay the \$405 filing fee or submit an IFP application
3 would result in the recommended dismissal. ECF No. 4 at 2; ECF No. 9 at 1. As of the date of this
4 order, Richardson has not lodged any objection to the dismissal recommendation, nor has he
5 requested more time to do so.² Instead, in direct violation of Judge Albregts's order, Richardson
6 has filed what appears to be a petition for habeas corpus. ECF No. 20. Because no objection is
7 filed, and because Richardson has failed to comply with Judge Albregts's orders to pay the civil
8 case filing fee or submit an IFP application, I adopt the R&R in its entirety and dismiss this
9 action without prejudice to allow Richardson the opportunity to file a petition for habeas corpus,
10 under a new case number.

11 Conclusion

12 IT IS HEREBY ORDERED that the magistrate judge's report and recommendation [ECF
13 No. 14] is adopted in its entirety; accordingly, Richardson's motion-habeas corpus [ECF No. 20]
14 is denied as moot.

15 This action is dismissed without prejudice. No other documents may be filed in this now-
16 closed case. If Richardson wishes to pursue his claims, he must file petition for a writ of habeas
17 corpus in a new case.

18 Dated: November 18, 2024

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Cristina D. Silva
United States District Judge
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26 ² “[N]o review is required of a magistrate judge’s report and recommendation unless objections are filed.”
Schmidt v. Johnstone, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thoma v. Arn*, 474 U.S. 140, 150 (1985);
United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003).